Supreme Court, U.S.
FILED

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No.

**In The**
**Supreme Court of the United States**
**October Term 1998**

KEVIN THOMPSON, A MINOR, and JAMIE THOMPSON,

*Petitioners*

v.

WILLIAM D. MCFATTER, individually and in his official capacity as Judge of the District Court of Houston County, Alabama; et al.,

*Respondents.*

**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit**

# PETITION FOR A WRIT OF CERTIORARI

Jamie Thompson
Kevin Thompson
Petitioners Pro Se
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4588

## QUESTIONS PRESENTED

1. Is the federal court prohibited from exercising jurisdiction when attorney Samuel Adams, attorney Michael Evers, attorney Malcolm Newman, attorney Terry Bullard, and attorney Susan Thompson diligently sought hearings on Jamie Thompson's constitutional rights for seven years, and were barred by state procedural law from presenting his claims?

2. Does a person lose his constitutional right to due process and equal protection by becoming a party to a divorce or child custody proceeding as stated by the Eleventh Circuit Court of Appeals?

3. Did the Court of Appeals' decision barring Kevin Thompson's claims without discussion violate the law established by this Court?

4. Did the Court of Appeals' dismissal of Jamie and Kevin Thompson's claims conflict with this court's rulings on the Rooker-Feldman doctrine, where neither Kevin Thompson nor any of the defendants except Halliwell had ever been parties to the state court proceedings?

5. On what basis could the Eleventh Circuit Court of Appeals refuse to address or consider Kevin Thompson's claims which have never been asserted in any lower court and were filed as a separate plaintiff in both the initial appeal and the request for rehearing. This ruling is contrary to established law in this circuit, and therefore deprives Kevin Thompson of any remedy and violates his due process rights.

6. Is a litigant entitled to a remedy or reasonable relief from a system conducted in bad faith, deception, and conspiracy, through its state court officials including judges, DHR employees, opposing attorneys, and the guardian ad litem, who join together as one relentlessly for over seven years to bar a litigant from presenting his claims, without any reason or justification, other than to retaliate against a litigant who only sought diligently to have his rights restored that were taken away contrary to the law and without justification.

7. Does "frivolous" describe a case in which the petitioners' constitutionally guaranteed rights have been violated and trampled relentlessly for a period of seven years with no reason or justification?

8. Did the Eleventh Circuit's order that petitioner pay attorney's fees to a defendant who had not actually incurred attorney's fees conflict with that court's prior rulings?

## LIST OF PARTIES

In addition to the parties listed in the caption, the following were parties before the court of appeals:

MYRTHA V. HALLIWELL; WADE H. BAXLEY; JACK BLUMENFELD, individually and in his official capacity as an agent of the Alabama Department of Human Resources; GLENDA PETERS, individually and in her official capacity as an agent of the Alabama Department of Human Resources; WILLIAM E. ROBERTSON, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals; CHARLES A. THIGPEN, individually and in his official capacity as Judge of Alabama Court of Civil Appeals; SHARON G. YATES, individually and in her official capacity as Judge of Alabama Court of Civil Appeals; JOHN B. CRAWLEY, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals; and ROGER M. MONROE, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals.

C. BRUCE ADAMS, guardian ad litem for petitioner Kevin Thompson in the state proceedings, was a defendant in the United States District Court, but was dismissed as an appellee by a panel of the Court of Appeals for the Eleventh Circuit following an order by the Bankruptcy Court discharging him from certain liabilities.

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Petitioners, Kevin Thompson and Jamie Thompson, respectfully request that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

## OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is an unpublished opinion (App. A). The opinion of the district court in *Thompson v. McFatter*, is reported at 951 F. Supp. 221 (M.D. Ala. 1996) LEXIS 20233 (App. B).

## STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit ("Court of Appeals") was entered on October 19, 1998. The Court of Appeals denied a timely petition for rehearing on November 23, 1998. (App. C) The Court of Appeals entered an order granting Appellee Blumenfeld's motion for attorney fees on December 8, 1998. (App. D)

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides in part:

No State shall…deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

## STATEMENT OF THE CASE

A. Introduction.

Since this case has dragged on so long, the following should be clarified for the Court's understanding of this case:

1. Petitioner Kevin Thompson, now 15 years old, has been in the primary physical custody of his father Jamie Thompson since July 1997. Jamie Thompson has the right and authority to act as Kevin's "next friend" in this case.

2. In February 1996 Judge Denny Holloway (circuit judge of Houston County) ended Judge McFatter's "reign of terror" in the juvenile court by signing an order removing McFatter as the juvenile court judge and having the juvenile court files removed from McFatter's possession. Appendix F, App. 23.

3. In July 1996, Judge Denny Holloway granted motions by Jamie Thompson to expand his visitation rights, vacate McFatter's void child support order, and dismiss the guardian ad litem, in one simple routine hearing.

B. Proceedings Below.

- 1987 - Petitioner Jamie Thompson filed petition in juvenile court alleging neglect of the child by the mother.
  Result: PENALIZED: The court drastically reduced his visitation rights with his 3 year old child. His visitation rights were not at issue.

- 1989 - Jamie Thompson filed motion to get visitation restored.
  Result: PENALIZED.

- 1991 - Jamie Thompson filed a motion for contempt when the mother and DHR failed to send the child for visitation.
  Result: PENALIZED: Judge McFatter ordered him to pay more child support and to pay $950 attorney's fees.

- 1991 - Jamie Thompson filed motion to get visitation restored.
  Result: PENALIZED: Motion ignored and never ruled on.

- 1992 - Jamie Thompson filed motion to get visitation restored.
  Result: PENALIZED: Motion ignored and never ruled on.

- 1994 - Jamie Thompson filed motion to get visitation restored.
  Result: PENALIZED: Judge refused to allow evidence to be presented.

- 1995 - Jamie Thompson filed appeal of the January 1995 Juvenile Court orders.
  Result: PENALIZED: Appeal dismissed and was ordered to pay attorneys fees and costs.

- 1995 - Jamie Thompson and Kevin Thompson filed civil rights lawsuit in U.S. District Court.
  Result: PENALIZED: Claims dismissed. Kevin Thompson's claims were barred from presentation.

- 1996 - Jamie and Kevin Thompson appealed the U.S. District Court's dismissal of civil rights claims.
  Result: PENALIZED: Court of Appeals assessed costs and attorney's fees against Jamie Thompson and threatened to assess double costs for a frivolous appeal. Kevin Thompson's claims were barred from presentation.

C. Juvenile Court Background.

Halliwell is Jamie Thompson's ex-wife. Halliwell's initial divorce attorney, Richard Ramsey, withdrew after the allegation that he was having an affair with client Halliwell surfaced. Halliwell then hired Wade Baxley to represent her. In a juvenile court hearing in September 1987, Ramsey committed perjury during testimony as a witness for Halliwell[1]. Evidence of that was presented to Judge McFatter, who was required to report it to the Alabama State Bar, but did not. When Thompson and his attorney Evers failed to get the juvenile court (McFatter) or the District Attorney, Doug Valeska, to pursue this matter, Thompson filed a complaint with the Alabama State Bar. Surprisingly, the letter was lost, then attorney Evers filed a complaint on Thompson's behalf to the Alabama State Bar and a letter to District Attorney Valeska concerning the perjury. Meanwhile, Thompson consulted three other attorneys concerning the perjury matter, then met with District Attorney Valeska only to find out that Ramsey had already visited with him to talk about possible charges being filed against him. District Attorney Valeska stated to Thompson that Ramsey was his friend and that he intended to protect him. In December 1989, in spite of strong opposition from court officials including Judge McFatter, Thompson finally obtained a warrant for Ramsey's arrest on perjury charges. The charges against Ramsey were no-billed by a grand jury thanks to his good friend, District Attorney Valeska. Thompson then pursued the complaint made to the Alabama State Bar, and after four years the Alabama Supreme Court upheld the four charges against Ramsey (see fn. 1).

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[1] Ramsey v. Disciplinary Board of the Alabama State Bar, 621 So.2d 1319 (Ala 1993).

Each one of the charges could have resulted in disbarment, but the state bar's discipline was only a 45-day suspension. Surprisingly, Wade Baxley, Halliwell's attorney, was a commissioner of the Houston County Bar Association at this time.

Thompson's mistreatment by the juvenile court judge and attorneys stemmed from his insistence on having Ramsey arrested and prosecuted for perjury in 1989; and continued for over a period of seven years in which McFatter was asked several times to recuse himself but refused. Thompson also filed two separate motions in Circuit Court to have the case transferred from Juvenile Court back to Circuit Court, but the case was always returned to Juvenile Court. McFatter was determined to retain jurisdiction over Thompson's case. Finally, in February 1996, McFatter was removed from the Juvenile Court System by court order signed by presiding Circuit Court Judge Holloway. Shortly thereafter, in July 1996, Holloway in one simple routine hearing granted Thompson's motion to restore visitation that had been taken away unjustifiably nine years earlier.

Glenda Peter's brief, App. 12, states that "his (Thompson's) efforts to increase his visitation rights continued until filing of the original complaint in this action." This statement is inaccurate and misleading because Thompson merely sought to have his visitation restored, that DHR (Peters) unjustifiably took away as she confirms in another statement - "Thompson's efforts have been unsuccessful and have resulted in a net decrease in visitation privileges."

McFatter, Baxley, DHR representative Peters, Blumenfeld, and Adams (the child's guardian ad litem)

collectively and intentionally used their positions and influence to manipulate the juvenile court proceedings, violating Thompson's constitutional rights and barring him from due process of law.

McFatter is a poor excuse for a judge, has a bad temperament, and is vindictive and retaliatory towards litigants and attorneys who attempt to assert their rights in his court. This case is a perfect example.

I, Jamie Thompson, personally wrote letters to the Judicial Inquiry Commission about McFatter's conduct and wrote letters to state senators, my congressman, the attorney general's office, and to the director of DHR of Alabama about the abuses of authority of these state officials, but not one person made any effort to help correct the problem.

## REASONS WHY THE WRIT SHOULD BE GRANTED

### I. The writ should be granted because the decision of the Court of Appeals conflicts with this court's rulings on the Younger abstention doctrine and the *Rooker-Feldman* doctrine.

The United States Supreme Court said in Moore v. Sims, 442 U.S. 415 (1979):

> "In Juidice v. Vail, 430 U.S., at 336-337, [***32] we noted that the teaching of Gerstein was that the federal plaintiff must have an opportunity to press his claim in the state courts and, as noted above, the appellees have not shown [**2382] that state procedural law barred presentation of their claims."

The Moore court also could not see any evidence of bad faith on the part of the state authorities, but said:

> "The question would be a much closer one had appellees diligently sought a hearing in Montgomery County after the Harris County action was transferred or had they pursued their appellate remedies."

Petitioners Jamie and Kevin Thompson were barred by state procedural law from presenting their claims in state court.

I, Jamie Thompson, diligently sought hearings on my motions for seven years, and was fined and penalized. I also pursued my appellate remedies, and was fined and penalized. My appeal of the juvenile court's order to the Court of Civil Appeals was dismissed on the basis that state procedural law barred presentation of my claims, and I was fined and penalized. [App. D] The Alabama Supreme Court denied certiorari, thereby barring presentation of my claims.[2]

I, Kevin Thompson, was not a party to any of the state court proceedings. I was the subject of all the proceedings, but I was never a party and never able to assert my rights or claims. Therefore, my claims presented in the District Court should not have been dismissed under the Rooker-Feldman doctrine.

**II The writ should be granted because the decision of the Court of Appeals conflicts with the due process provisions of the U.S. Constitution and the Fourteenth Amendment.**

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[2] The district court cited Rolleston v. Eldridge, 868 F.2d 163 (11th Cir. 1988) for the proposition that it is enough that the plaintiff actually appealed to a state court. However, in Rolleston, the appeals court actually reviewed the plaintiffs claims on the merits. 868 F.2d at 165. Also, according to Datz v. Kilgore, 51 F.3d 252, 254 (11th Cir. 1995), the Rooker-Feldman analysis requires the federal court to look at the actual issues decided in state court.

The Court of Appeals' ruling means that persons lose their constitutional rights to due process when they become parties to divorce or child custody proceedings. 42 U.S.C. § 1983 does not say "except in child custody proceedings" and the Fourteenth Amendment does not say that either.

Staley v. Ledbetter, 837 F.2d 1016 (11th Cir. 1988), is another example of the Eleventh Circuit's rulings to the effect that parties to child custody proceedings lose their constitutional rights. The court refuses to acknowledge that the procedural complexities of litigation leave many litigants without any remedy. In Mitchum v. Foster, 407 U.S. 225, 242 (1972), this Court recognized that the U.S. Congress enacted the provisions of 42 U.S.C. § 1983 specifically to remedy egregious violations by STATE COURT JUDGES of litigants' constitutional rights of due process and equal protection.

## III. The writ should be granted because the Court of Appeals accepted jurisdiction in Roe v. Alabama and Dykes v. Hosemann.

Roe v. Alabama, 68 F.3d 404 (11th Cir. 1995), involved the validity of absentee ballots cast in the 1994 general election in Alabama. The plaintiffs filed suit in federal court to enjoin the counting of absentee ballots that did not meet the requirements of the law. The Eleventh Circuit certified to the Alabama Supreme Court the question as to whether the ballots in question complied with Alabama law and therefore should be counted. Four justices of the Alabama Supreme Court ruled that the ballots "substantially complied with Alabama law. This was contrary to Ala. Code §17-10-7, the Alabama Election Handbook, and a 1980 formal opinion of the Alabama attorney general.

The Eleventh Circuit overruled that decision of the Alabama Supreme Court. State elections are state business, which the Alabama courts should be able to handle competently. The Eleventh Circuit had no problem deciding that it was okay for the federal court to interfere in the state's judicial proceedings and overrule a decision of the Alabama Supreme Court. The Court said that Rooker-Feldman did not apply because the parties in the federal suit were not the same as in the state suit and did not have an opportunity to raise their claims in state court. As Petitioners have pointed out, Kevin Thompson was not a party to the state court proceedings either, nor were defendant-appellees Baxley, Adams, Peters, Blumenfeld or the defendant judges.

Also, the Roe court did not mention the fact that its interference would violate principles of comity. Interference in state court matters is still interference, regardless of the level or the subject matter.

This case is more similar to Dykes v. Hosemann, 743 F.2d 1488 (11th Cir. 1984), vacated, 776 F.2d 942 (11th Cir. 1985), reinstated 783 F.2d 1000 (11th Cir.) cert. denied, 479 U.S. 983 (1986), than to any other case. In Dykes, a mother who had lost custody of her child alleged that several individuals, including her ex-husband and two Florida state court judges conspired to deprive her of custody of her child without due process. One of the judges held a hearing without notice to the plaintiff-mother at which he entered an order finding the child to be a "dependent child" and awarded custody to the father without receiving any evidence. The Eleventh Circuit Court of Appeals ruled that there was sufficient evidence of a conspiracy to violate the plaintiff's due process rights to justify submitting the case to a jury. The court never mentioned the Rooker-Feldman doctrine.

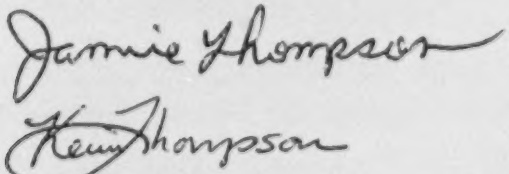
Like Dykes, Petitioner Jamie Thompson was not given a hearing on the merits of his claims in state court. Like Dykes, Petitioner alleged that the orders entered by McFatter were the product of a corrupt conspiracy among the judge and certain other defendants reached outside the court proceedings; the juvenile court was merely the vehicle enabling the defendants to deprive the Petitioners of their constitutional rights.

**IV. The writ should be granted because the Court of Appeals has made the Rooker-Feldman doctrine a higher authority than the federal law and the United States Constitution.**

## CONCLUSION

The Court of Appeals' decision barring Jamie Thompson's presentation of his constitutional claims in federal court because they arose in connection with a child custody proceeding means that a person loses his constitutional right to due process simply because he was a party to a child custody proceeding. The Court of Appeals' decision barring Kevin Thompson's presentation of his constitutional claims in federal court even though he was not a party to any state court proceedings, nor were the defendants, violates Kevin's right of due process and access to the courts, and conflicts with prior decisions of the Eleventh Circuit and this Court. By granting the writ, this Court can correct the Eleventh Circuit's decision and restore the constitutional rights of parties to child custody proceedings.

Respectfully submitted



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**APPENDIX A - UNPUBLISHED OPINION OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FILED OCTOBER 19, 1998**

Corrected

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 96-7197
Non-Argument Calendar

D.C. Docket No. CV-95-D-653-S

JAMIE THOMPSON, individually and as next friend of Kevin Thompson, a minor,

Plaintiff-Appellant,

versus

WILLIAM D. MCFATTER, individually and in his official capacity as Judge of the District Court of Houston County, Alabama;

MYRTHA V. HALLIWELL;

WADE H. BAXLEY;

JACK BLUMENFELD, individually and in his official capacity as an agent of the Alabama Department of Human Resources;

GLENDA PETERS, individually and in her official capacity as an agent of the Alabama Department of Human Resources;

WILLIAM E. ROBERTSON, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals;

CHARLES A. THIGPEN, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals;

SHARON G. YATES, individually and in her official capacity as Judge of the Alabama Court of Civil Appeals;

JOHN B. CRAWLEY, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals;

ROGER M. MONROE, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals,

Defendants-Appellees.

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Appeal from the United States District Court
for the Middle District of Alabama

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Before HATCHETT, Chief Judge, BARKETT, Circuit Judge, and CLARK, Senior Circuit Judge.

PER CURIAM:

This is an appeal from the district court's grant of the motions to dismiss filed by defendants William D. McFatter,

Myrtha V. Halliwell, Wade H. Baxley, C. Bruce Adams[1], Jack Blumenfeld, Glenda Peters, William E. Robertson, Charles A. Thigpen, Sharon G. Yates, John B. Crawley, and Roger M. Monroe in plaintiff Jamie Thompson's action alleging violations of 42 U.S.C. § 1983, and the state law torts of outrage and negligence. Based on our review of the record and briefs, the district court did not err. Therefore, we affirm.

## I. BACKGROUND

Thompson was divorced from defendant Myrtha V. Halliwell in May 1987. The divorce decree awarded joint custody of their minor son, Kevin. Halliwell was awarded physical custody and Thompson was awarded summer and weekend visitation rights.

In September 1987, Thompson petitioned the juvenile court to have Kevin declared a dependent due to alleged neglect by Halliwell[2]. The juvenile court adjudicated Kevin a dependent, but allowed Halliwell to retain physical custody of Kevin and appointed a guardian ad litem. The juvenile court found that the large blocks of time awarded for summer visitations were not in the best interests of the child, and reduced Thompson's summer visitation from three months to one month[3]. The juvenile court "specifically retain[ed]

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[1] Adams was dismissed as an appellee in this case by a panel of this court.

[2] Thompson v. Halliwell, 668 So.2d 43,44 (Ala.Civ.App.), reh'g denied, cert. denied (1995).

[3] Halliwell, 668 at 44.

jurisdiction over the child and controversy as to custody until relinquished by a further order" of the juvenile court[4]. For the next three years, Thompson filed various petitions in the juvenile court seeking custody or a modification of his visitation rights, but all were denied. In 1991, the juvenile court increased Thompson's child support even though there were no requests for modification before it[5]. In 1993, the Department of Human Resources petitioned the juvenile court to be relieved of custody, and the petition was granted.

On September 24, 1994, Thompson filed a "Motion to Enforce Visitation Rights and Child Support Established by the Circuit Court," and a "Motion to Dismiss Guardian Ad Litem" in October 1994[6]. Following a hearing in January 1995, the juvenile court denied Thompson's motion to dismiss the guardian ad litem, but allowed him seven days to present authorities in support of his motion regarding visitation and child support[7]. Thompson failed to present such authorities, but appealed to the Court of Civil Appeals of Alabama[8]. The Court of Civil Appeals dismissed the appeal, finding that there had been no final order by the juvenile court on Thompson's motion to enforce visitation or child support, and awarded attorney's fees to his ex-wife[9].

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[4] R1-17 at Exh. C.

[5] Id.

[6] R1-10 at 3; Halliwell, 668 So.2d at 44.

[7] Halliwell, 668 So.2d at 44.

[8] Id. at 44.

[9] Id. at 45. The district court subsequently found that the state court proceedings were final "based upon the plaintiff's representations" that there were no proceedings in the juvenile court. Thompson v. McFatter ("McFatter I"), 951 F.Supp.221,224 n. 5 (M.D. Ala. 1996).

Thompson then filed this pro se action in the federal district court alleging that Houston County District Judge McFatter, DHR employees Blumenfeld and Peters, court-appointed guardian ad litem Adams, Halliwell, and her attorney Baxley conspired to deprive Thompson of his due process rights and interfere with his associational right as a parent[10]. He also claimed damages for the outrageous conduct of Halliwell, Baxley, Adams, Peters, and Blumenthal and from the negligence of Adams, Peters and Blumenthal. By amended complaint, Thompson alleged that Alabama Court of Civil Appeals Judges Robertson, Thigpen, Yates, Crawley and Monroe had deprived Thompson of his right to due process and to associate with his son. The defendants responded with motions to dismiss. The district court granted the motions, finding that the court lacked subject matter jurisdiction under the Rooker-Feldman doctrine[11] because "this action has everything to do with [the state child custody] proceedings."[12] Since the district court had no jurisdiction of the federal claim, it also declined to exercise supplemental jurisdiction over the remaining state law claims and dismissed them without prejudice.[13] Thompson timely appealed.

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[10] R1-1 at 2-6. Although Thompson filed his complaint and amended complaint pro se, attorney Susan D. Thompson, Thompson's sister, entered an appearance six months after the case was filed and continued to represent him throughout the remaining district court proceedings.

[11] Rooker v. Fidelity Trust Co. 263 U.S. 413, 416, 44 S.Ct.149, 150, 68 L.Ed. 362 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486, 103 S.Ct. 1303, 1316-1316, 75 L.Ed.2d 206 (1983).

[12] R2-64; McFatter I, 951 F.Supp. at 223.

[13] McFatter I, 951 F.Supp. at 225.

## II. DISCUSSION

Thompson argues that the district court improperly applied the Rooker-Feldman doctrine by failing to consider the exceptions. He maintains that he lacked a reasonable opportunity to raise his federal claims in the state proceedings, that he alleged fraud and deception and that the state court judgment was void, and that the record failed to contain any evidence of the state court judgment. Thompson also argues that the district court improperly abstained pursuant to Younger v. Harris because he was not seeking to enjoin any state court proceedings.

In Alabama, the juvenile court has jurisdiction over proceedings to determine the custody of a child when the child is otherwise before the court, and retains jurisdiction until the child is 21 years old or until its jurisdiction is terminated by order of the juvenile court.[14]

Under the Rooker-Feldman doctrine, federal district courts are prohibited from exercising subject matter jurisdiction to decide federal issues that are inextricably intertwined with a state court's judgment.[15] An issue is "inextricably intertwined" when the district court must necessarily review the essential components of the state court

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[14] Halliwell, 668 So.2d at 44.

[15] Powell v. Powell. 80 F.3d 464, 466-467 (11th Cir. 1996); Blue Cross and Blue Shield of Maryland v. Weiner, 868 F.2d 1550, 1554 (11th Cir.), cert. denied, 493 U.S. 892, 110 S.Ct. 239, 107, L.Ed.2d 190 (1989).

judgment.[16] If the plaintiff had no "reasonable opportunity to raise his federal claim in state proceedings," an important limitation to the Rooker-Feldman doctrine is recognized.[17] The Rooker-Feldman doctrine applies to Alabama child custody proceedings where the plaintiff claims damages from the violation of a constitutional right during child custody proceedings, or seeks injunctive and declaratory relief.[18]

A federal court should not act to restrain an ongoing state child custody proceeding where the plaintiff had an opportunity to present his federal claim in the pending state proceedings.[19] The Younger doctrine is applicable to Alabama child custody proceedings even if no specific proceedings are scheduled.[20]

The district court did not err in finding that it lacked subject matter jurisdiction over Thompson's complaint. Each of Thompson's claims arise from the actions of the defendants

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[16] Powell, 80 F.3d at 466-467; Blue Cross and Blue Shield of Maryland, 868 F.2d at 1555-1556.

[17] Powell, 466 F.3d at 467.

[18] Powell 466 F.3d at 1556; Liedel v. Juvenile Court of Madison County, Alabama, 891 F.2d 1542, 1545 (11th Cir. 1990).

[19] Liedel, 891 F.2d at 1446, citing Younger v. Harris, 401 U.S. 37, 41, 91 S.Ct. 746, 749, 27 L.Ed.2d 669 (1971) (federal courts should not restrain ongoing state court criminal proceedings) and Moore v. Sims, 442 U.S. 415, 423 99 S.Ct. 2371, 2377, 60 L.Ed.2d 994 (1979) (extending Younger to ongoing child custody proceedings).

[20] 20 Liedel, 891 F.2d at 1546.

which led to the state court judgment. The evidence showed that Thompson filed at least nine motions in the state trial and appellate courts, and could have raised his federal claims in those proceedings.

This court finds that the legal theories advanced on appeal by Thompson and his attorney, Susan D. Thompson, are frivolous. We are inclined to award double costs and attorney's fees as sanctions jointly and severally against the attorney and the client.[21] Thompson and his attorney may, therefore, respond to this finding within 14 days from the date of this opinion.[22]

## III. CONCLUSION

As the district court lacked jurisdiction to review the past state court orders, or to enjoin the pending state court proceedings, the district court's dismissal of Thompson's complaint is AFFIRMED. Thompson and his attorney are hereby noticed that we are inclined to award costs and attorney's fees, and are provided an opportunity to respond within 14 days from the date of this opinion.

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[21] Taivo Corporation v. Sheraton Savannah Corporation, 49 F.3d 1514, 1515 (11th Cir. 1995); Fed.R.App.P. 38.

[22] 22 Rule 38.

## APPENDIX B - ORDER OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION FILED NOVEMBER 27, 1996

JAMIE THOMPSON, ET AL., Plaintiffs, vs. WILLIAM D. McFATTER, ET AL., Defendants.

CIVIL ACTION NO. 95-D-653-S

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

951 F. Supp. 221; 1996 U.S. Dist. LEXIS 20233

November 27, 1996, FILED, ENTERED

ORDER

Before the court are several motions to dismiss: (1) a motion to dismiss [**3] filed on June 12, 1995, by defendants Wade H. Baxley and Myrtha V. Halliwell; a motion to dismiss filed on June 15, 1995, by defendants William D. McFatter, William E. Robertson, Charles A. Thigpen, Sharon G. Yates, John B. Crawley, and Roger M. Monroe; a motion to dismiss filed on June 22, 1995, by defendant C. Bruce Adams; a motion to dismiss filed on June 26, 1995, by defendant Jack Blumenfeld; a motion to dismiss, for judgment on the pleadings, or for full or partial summary judgment filed on June 26, 1995, by defendant Glenda C. Peters; and a renewed motion to dismiss filed on July 21, 1996, by defendant C. Bruce Adams. n1 Plaintiffs Jamie Thompson and Kevin Thompson, filed a series of responses to these motions including two responses on July 11, 1995, one on July 18, 1995, one on July 20, 1995, one on July 21, 1995, and one on July 26, 1996. n2 After careful consideration of the arguments of counsel, the caselaw, and the record as a whole, the court finds that the defendants' motions are due to be granted.

n1 Parties to this action are defendants: Wade H. Baxley, Myrtha V. Halliwell, William D. McFatter, William E. Robertson, Charles A. Thigpen, Sharon G. Yates, John B. Crawley, Roger M. Monroe, C. Bruce Adams, Jack Blumenfeld, and Glenda C. Peters. The plaintiffs are Jamie Thompson in his individual capacity and as the next friend on Kevin Thompson, a minor.

[**4]

n2 The Plaintiffs filed a motion for leave to amend their complaint for the second time on July 24, 1996, which drew three responses in objection. While reserving ruling on this motion, the court notes that the motion to amend has no impact on the ultimate outcome of the present decision.

I. JURISDICTION

The court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 28 U.S.C. § 1367(a). The parties do not contest personal jurisdiction or venue.

II. FACTUAL BACKGROUND

Plaintiff Jamie Thompson and defendant Myrtha Halliwell were divorced by the Houston County, Alabama Circuit Court on May 25, 1987. First Amended Compl.("Compl.") P 9. The divorce decree awarded joint custody of their son, plaintiff Kevin Thompson, with Myrtha Halliwell to have physical custody and Jamie Thompson to have summer and weekend visitation rights. Id. Once the divorce was final, Jamie Thompson began to contest the custody arrangements under ]

the divorce decree. Jamie Thompson Appellate Br. to Alabama Court of Civil Appeals ("Civil Appeals Br.") at 1-3, Glenda Peters [**5] Mot. to Dismiss Ex. H.; see also Compl. PP 1-13. His efforts to increase his visitation rights [*223] continued until the filing of the original complaint in this action on May 17, 1995. Id. Thompson also engaged in periodic efforts to force greater court supervision of his ex-wife's activities claiming her lifestyle negatively impacted Kevin's development. Compl. P 16. Jamie Thompson's efforts have been largely unsuccessful and have resulted in a net decrease in his visitation privileges. Civil Appeals Br. at 1-3. As part of his efforts, Thompson has sought relief from the Houston County Juvenile Court, the Houston County Circuit Court, and the Alabama Court of Civil Appeals. Id. at 3; Compl P 23.

The plaintiffs' complaint alleges that the defendants engaged in a concerted effort to deprive the plaintiffs of their right of association, right to due process, and right to equal protection of the law. Compl. at 2. Specifically, the plaintiffs allege that defendant McFatter in his role as a Houston County District Judge sitting as the Juvenile court acted under the color of state law to violate the plaintiffs' rights of due process and association guaranteed to them by virtue of [**6] the Fourteenth Amendment to the United States Constitution. Compl. PP 14-20. The amended complaint also alleges that defendants Robertson, Thigpen, Yates, Crawley, and Monroe while acting as judges on the Alabama Court of Civil Appeals violated the plaintiffs' constitutional rights by "ratifying and approving the violation of plaintiffs' civil rights by the other defendants." Compl. PP 21-28. The plaintiffs further allege that Peters and Blumenfeld in their role as agents and employees of the Alabama Department of Human Resources violated the plaintiffs' constitutional rights by acting

individually and in concert with McFatter to restrict plaintiff Jamie Thompson's visitation rights. Compl. P 10. Finally, the plaintiffs allege that defendants Halliwell, her attorney Baxley, and Adams who was acting as Kevin Thompson's guardian ad litem, acted in concert with McFatter, Blumenfeld, and Peters to restrict the plaintiffs's constitutional rights. n3 Compl. P 13.

n3 The plaintiffs proposed second amended complaint contains two additional state law claims: outrage and negligence.

[**7]

III. DISCUSSION

While the plaintiffs have continually asserted that this action has nothing to do with the state child custody proceedings, the court finds that this action has everything to do with these state matters. The plaintiffs' claims are nothing more than a collateral attack on a particular set of state court decisions. The court cannot grant plaintiffs' requested relief; the court is prohibited under the Rooker-Feldman doctrine from deciding federal claims which are "inextricably intertwined" with a final state court judgment. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 486, 75 L. Ed. 2d 206, 103 S. Ct. 1303 (1983); Blue Cross and Blue Shield of Md., Inc., 868 F.2d 1550, 1553 (11th Cir.)(citing Rooker v. Fidelity Trust Co., 263 U.S. 413, 416, 68 L. Ed. 362, 44 S. Ct. 149 (1923) and explaining that the Rooker court found review of a final state court decision by a federal district court wrong for two reasons: "(1) district courts can only exercise original jurisdiction, and (2) the Supreme Court has the exclusive

authority to review state supreme court decisions for alleged federal law errors"), cert. denied, 493 U.S. 892, 110 S. Ct. 239 (1989). [**8]

The Eleventh Circuit has firmly embraced the Rooker-Feldman doctrine and stated on numerous occasions that federal district courts lack jurisdiction to review final decisions of state courts where the purported plaintiffs had a reasonable opportunity to raise their alleged federal claims during the state court proceedings. See Liedel v. Juvenile Court of Madison County, Alabama, 891 F.2d 1542 (1990); Weiner, 868 F.2d 1550; Rolleston v. Eldridge, 848 F.2d 163 (1988); Staley v. Ledbetter, 837 F.2d 1016 (1988); Hollins v. Wessel, 819 F.2d 1073 (1987); Wood v. Orange County, 715 F.2d 1543 (1983), cert. denied, 467 U.S. 1210, 81 L. Ed. 2d 355, 104 S. Ct. 2398 (1984). In particular, the Eleventh Circuit has consistently held that district courts have no jurisdiction in actions requiring review of state child custody proceedings. See Liedel, 891 F.2d 1542 [*224] (state child custody proceeding); Staley, 837 F.2d 1016 (termination of adoptive parent parental rights); see also Chrissy F. v. Mississippi Department of Public Welfare, 995 F.2d 595 (5th Cir. 1993)(constitutional claims resulting from child custody proceedings), cert. denied, 510 U.S. 1214, [**9] 114 S. Ct. 1336, 127 L. Ed. 2d 684 (1994).

Contrary to the plaintiffs' assertions, the facts of this action fit squarely into the Rooker-Feldman doctrine which requires the dismissal of the plaintiffs' federal claims. These claims are a collateral attack on the state trial and appellate court decisions. See Liedel, 891 F.2d at 1543, 1545-46 (dismissing § 1983 claims requesting district court to enjoin

enforcement of state court child custody orders and damages); Staley, 837 F.2d at 1016-18 (affirming dismissal of § 1983 action challenging child custody determinations). The plaintiffs seek to use federal relief in the form of injunctions, declarations, and monetary damages to blunt the force of the final state court decisions.

For instance, in Judge McFatter's case, the plaintiffs request a declaration stating that McFatter has violated the plaintiffs's due process and association rights as well as an injunction enjoining McFatter from continuing to violate these rights. Compl. P 20. This remedy will require the court to review McFatter's rulings, declare them unconstitutional, and then prevent their further enforcement. This result is nothing less than the invalidation of a final state court decision. [**10] See Liedel, 891 F.2d at 1545 (holding that a federal order enjoining an state juvenile court from enforcing its prior child custody orders "would effectively nullify those state orders") In the same fashion, the plaintiffs request similar impermissible relief against the court of civil appeals judges and the other defendants. n4 See Compl. P 28.

n4 The plaintiffs' request for declaratory judgment, monetary damages, and an injunction against the remaining nonjudicial defendants also attacks a final state court judgment by forcing many of the critical actors in these proceedings to drop the role the state system requires them to play. For example, it will be difficult, if not impossible, for the child custody decisions involving Kevin Thompson to be implemented if Kevin's guardian ad litem must discontinue any involvement in the proceedings. While the court notes the plaintiffs' contentions that

the guardian ad litem has never been involved in this matter, Civil Appeals Br. at 3, the court defers to the state courts' decisions that the guardian ad litem has played his proper role in this matter. Furthermore, if defendant Baxley can no longer advocate for his client, Kevin Thompson's mother Myrtha V. Halliwell, the state court proceedings will lose their adversarial character which could alter their outcome.

[**11]

Therefore, the court finds that the plaintiffs's claims are a collateral attack on the final state court decisions in this action. n5 All that remains is for the court to determine if the plaintiffs had a "reasonable opportunity" to raise their constitutional claims during the course of the state court proceedings. See Weiner, 868 F.2d at 1555. The court may determine such an opportunity exists even if a plaintiff does not raise the claim during the state proceeding. Rolleston, 848 F.2d at 165. It is enough that the plaintiff could have raised the issue through state appellate procedures. Id. When a plaintiff actually appeals to a state court, the Eleventh Circuit has consistently held that a reasonable opportunity existed. See Rolleston, 848 F.2d at 165; Hollins, 819 F.2d at 1074. Plaintiffs had the opportunity to raise their constitutional claims during their appeal to the Alabama Court of Civil Appeals. While the civil appeals court opinion shows no sign of these claims, it was enough that the plaintiffs had the chance to make such claims. Therefore, the court finds that the plaintiffs had a reasonable opportunity to raise their federal claims to the Alabama [**12] appellate courts and further finds that the court lacks jurisdiction [*225] over the plaintiffs' federal claims due to the Rooker-Feldman doctrine.

n5 By the plaintiffs own admission, these state court decisions are final. Pls. Memo. Br. in Opp'n to Adams' Mot. to Dismiss at 6 ("The state court proceedings referred to by the defendants are completely irrelevant to the present case . . . . it is solely the plaintiffs' decision as to whether there will be any further state court proceedings. There certainly are no proceedings pending in the juvenile court."). Initially, the court questioned the finality of the juvenile court proceedings due to the court of civil appeals' holding that Judge McFatter's decisions on visitation and support were not final. Thompson v. Halliwell, 1995 Ala. Civ. App. LEXIS 390, No. 2940341 (Ala. Civ. App. May 19, 1995). However, the court ultimately finds that these decisions are final based upon the plaintiffs' representations.

Based upon its dismissal of the federal claims, the court declines to exercise supplemental [**13] jurisdiction over the plaintiffs' remaining state law claims and dismisses them without prejudice pursuant to 28 U.S.C. § 1367(c)(3).

Accordingly, it is CONSIDERED and ORDERED that the defendants' motions to dismiss are be and the same GRANTED so that all of the plaintiffs' federal claims are DISMISSED and that the plaintiffs' remaining state law claims are also DISMISSED without prejudice.

It is further CONSIDERED and ORDERED that all costs herein incurred be and the same are hereby taxed against the plaintiffs, for which let execution issue.

DONE this 27th day of November, 1996.

IRA DEMENT
UNITED STATES DISTRICT JUDGE

## APPENDIX C - ORDER OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT DENYING PETITION FOR REHEARING FILED NOVEMBER 23, 1998

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO 96-7197

JAMIE THOMPSON, individually and as
next Friend of Kevin Thompson, a minor,
Plaintiff-Appellant,

versus

WILLIAM D. McFATTER, individually and in
his official capacity as Judge of the
District of Houston County, Alabama;
MYRTHA V. HALLIWELL;
WADE BAXLEY, et al.,
Defendants-Appellees.

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On Appeal from the United States District Court for the
Middle District of Alabama

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BEFORE: HATCHETT, Chief Judge, BARKETT, Circuit Judge, and CLARK, Senior Circuit Judge.

PER CURIAM:

The petition(s) for rehearing filed by the appellant is *denied.*

ENTERED FOR THE COURT:
/s/ Thomas A. Clark
SENIOR UNITED STATES CIRCUIT JUDGE

**APPENDIX D- ORDER OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT GRANTING APPELLEE BLUMENTHAL'S MOTION FOR ATTORNEY'S FEES FILED DECEMBER 8, 1998**

IN THE UNITED STATES COUR OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO 96-7197

JAMIE THOMPSON, individually and as
next Friend of Kevin Thompson, a minor,
Plaintiff-Appellant,

versus

WILLIAM D. MCFATTER, individually and in his official capacity as Judge of the District Court of Houston County, Alabama;
MYRTHA V. HALLIWELL; WADE H. BAXLEY;
JACK BLUMENFELD, individually and in his official capacity as an agent of the Alabama Department of Human Resources;
GLENDA PETERS, individually and in her official capacity as an agent of the Alabama Department of Human Resources;
WILLIAM E. ROBERTSON, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals;
CHARLES A. THIGPEN, individually and in his official capacity as Judge of the Alabama Court of Civil Appeals;
SHARON G. YATES, individually and in her official capacity as Judge of the Alabama Court of Civil Appeals;
Defendants-Appellees.

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On Appeal from the United States District Court for the Middle District of Alabama

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BEFORE: HATCHETT, Chief Judge, BARKETT, Circuit Judge, and CLARK, Senior Circuit Judge.

BY THE COURT:

Appellee Blumenthal's motion for attorney's fees is GRANTED. This matter is REMANDED to the district court for a determination of a reasonable fee.

**APPENDIX E - ORDER OF THE ALABAMA COURT OF CIVIL APPEALS DISMISSING THOMPSON'S APPEAL FILED MAY 19, 1995**

**NOTICE:** This opinion is subject to formal revision before publication in the advance sheets of **Southern Reporter**. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 242-4621), of any typographical or other errors, in order that corrections may be made before the opinion is printed in **Southern Reporter**.

# ALABAMA
# COURT OF CIVIL APPEALS

OCTOBER TERM, 1994-95

2940341

Jamie Thompson

v.

Myrtha Halliwell

Appeal from Houston Juvenile Court

(JU-87-225)

MONROE, Judge

This is an appeal of a post-judgment order concerning a motion to modify visitation and child support and a motion to dismiss a guardian ad litem.

In this case, shortly after the parties' divorce was granted in circuit court, Jamie Thompson, the father filed a petition in the district court's juvenile division alleging that his son was dependent and in need of supervision. The record shows that the juvenile court found that the son was dependent, and from that point on, the juvenile court has retained jurisdiction of issues concerning the son. Twice the father has attempted to have a motion concerning visitation heard in the circuit court, and twice the circuit court has transferred the motions to the juvenile court, saying that the juvenile court has exercised jurisdiction over this matter for a number of years. The father first contends that the district court's juvenile division does not have jurisdiction over the visitation issue, because, he says, there is no emergency or other grounds supporting the court's jurisdiction. The father argues that because the circuit court initially had jurisdiction over the issues of custody and visitation as part of the parties' divorce action, the circuit court has jurisdiction over this matter

We note that the juvenile court has jurisdiction over proceedings to determine custody of a child when the child is otherwise before the court. § 12-15-30(b) (1), Ala. Code 1975. Once the juvenile court obtains jurisdiction in the case of a child, it retains jurisdiction, with certain exceptions not relevant here, until the child is 21 years old or until its jurisdiction is terminated by order of the juvenile court. § 12-15-32(a), Ala. Code 1975; see also, Valero v. State, 511 So. 2d 200, 203 (Ala. Civ. App. 1987).

The father also contends that the trial court abused its discretion in denying his motion to dismiss the guardian ad litem, in refusing to grant him more generous visitation rights, and in refusing to vacate its order increasing his child support. However, the record shows that the trial court did not enter a final order as to these issues.

After a hearing on the motions, the juvenile court entered an order stating, "[P]etitioner given 7 days to present other authorities for change of visitation without showing or alleging change in circumstances or that it would be in the best interests of the child. Respondent should have 7 days after receipt of authorities to respond." The trial court also denied the father's motion to dismiss the guardian ad litem.

"Unless otherwise specified by law, a proper appeal will lie only from a final order or judgment." Pate v. Jack Cornelius Shop, 628 So. 2d 782 (Ala. Civ. App. 1993); § 12-22-2, Ala. Code 1975. "A final judgment is one in which there has been a complete adjudication of all matters in controversy between the parties." Peeks v. Peeks, 602 So. 2d 906, 907 (Ala. Civ. App. 1992). Where there is no appealable order, this court has no choice but to dismiss the appeal. Id. The issues of whether visitation and support should be modified are pending; therefore, there has not been a complete adjudication of all matters between the parties pending before the juvenile court. The appeal is dismissed.

The wife's request for an attorney fee on appeal is granted in the amount of $500.

APPEAL DISMISSED.

Robertson, P.J., and Thigpen, Yates, and Crawley, JJ., concur.

John H. Wilkerson, Jr., Clerk of the Court of Appeals of Alabama, do hereby certify the foregoing is full, true and correct copy of the Instrument(s) herewith set out as same appears of record in said court.

Witness my hand this 19th day of May, 1995

Clerk, Court of Civil Appeals of Alabama

## APPENDIX F - ORDER OF THE HOUSTON COUNTY CIRCUIT COURT REMOVING WILLIAM MCFATTER FROM THE JUVENILE COURT FILED FEBRUARY 16, 1996

**IN THE**
**TWENTIETH JUDICIAL CIRCUIT**
**HOUSTON COUNTY, ALABAMA**

**ORDER**

Alabama Code Section 12-12-10, provides that this court as the presiding judge of this the 20th Judicial Circuit of the State of Alabama, by statute "...shall have general supervision of the administrative operation of the district courts within the circuit...." ALA CODE §12-12-10.

Alabama Code Section 12-17-24, requires that

> "[t]he presiding circuit judge shall exercise a general supervision of the judges, clerks, registers, court reports, bailiffs, sheriffs and other court employees except employees of the clerk, and see that they attend strictly to the prompt, diligent discharge of their duties"

Alabama Code Section 12-15-3, provides that "the presiding circuit court judge shall designate from time to time a district court judge or circuit court judge who shall serve as the judge hearing juvenile cases." See also, Rule 2 (A) and (B), rules of Juvenile Procedure set out below[1], which clarifies the administrative duties of the presiding circuit judge.

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[1] Rule 2 reads as follows:

(A) The judge of the district court shall serve as the juvenile judge unless otherwise ordered by the presiding circuit judge.

(B) The presiding circuit judge shall designate from time to time a circuit judge or a district judge to serve as the juvenile judge.

Alabama Code Section 12-17-20, provides that

> "the presiding circuit court judge may designate from time to time a district court judge, who shall have the same powers and authority as a circuit judge to handle all cases involving domestic relations, divorce, annulments of marriage, custody and support of children, granting and enforcement of alimony, proceedings under the Reciprocal Nonsupport Act and all other domestic and material matters over which the circuit court has jurisdiction...who shall serve as an ex officio circuit judge when handling such cases, regardless of any provisions contained in this title or any other laws to the contrary...."

THEREFORE, IT IS HEREBY ORDERED that District Court Judge William D. McFatter, is hereby and immediately removed as the district court judge designated to hear juvenile court cases.

IT IS FURTHER ORDERED, that all juvenile jurisdiction and pending juvenile cases shall be and are hereby transferred to Circuit Court Judge Number 3, the presiding circuit court judge, until such time as said presiding court judge shall designate another judge to have said juvenile jurisdiction and to hear said cases.

IT IS FURTHER ORDERED, that all juvenile files be promptly removed from the office of District Court Judge William D. McFatter by the circuit clerk and placed in a separate and secure location. The Sheriff of Houston County shall accompany the circuit clerk and assist her in removing said files. Anyone interfering with the implementation of this

order shall be taken into custody by the Sheriff and brought before this court to show cause if any, why contempt proceedings should not be commenced against them.

IT IS FURTHER ORDERED, that all juvenile court clerks are hereby assigned to the circuit clerk for administration and supervision. Phyllis J. Logsdon shall continue to serve as referee and shall conduct referee hearings in courtroom number four (4), in the Houston County Court House.

IT IS FURTHER ORDERED, that the juvenile probation officers shall forthwith be responsible for the local transportation of juveniles for the juvenile court. The Sheriff of Houston County and municipal police shall assist said juvenile probation officers, upon the giving of reasonable notice and request, at night, in emergency situations and in cases of violent or otherwise dangerous juveniles.

IT IS FURTHER ORDERED, that the Houston County Sheriff or his officers shall continue to handle all long distance (out of county) transport requests upon the giving of reasonable notice by the juvenile court.

IT IS FURTHER ORDERED, that the Houston County Sheriff shall, in conjunction with the City of Dothan Police Chief, make arrangements for and make available to the juvenile probation officer one secure vehicle for the transport of said juveniles.

IT IS FURTHER ORDERED, that the circuit clerk shall give notice of this order to District Court Judge William D. McFatter, Kay Barbaree, Director of Juvenile Services, Houston County Commission, the Police Chiefs of the cities of Dothan, Taylor, Kinsey, Columbia, Ashford and Cottonwood, the juvenile probation officers, Jonathan Borden, Barbara Carpenter, Wvette Vae, Karen Solomon, Holland Brown Sparks, Scott Curry and Traci Brackin by causing a copy of this order to served upon each of them by the Houston County Sheriff or his deputies.

DONE, this the 16th day of February, 1996.

/s/ Denny Holloway
DENNY HOLLOWAY
PRESIDING CIRCUIT COURT JUDGE

/s/ S. Edward Jackson
S. EDWARD JACKSON
CIRCUIT COURT JUDGE

/s/ C. Lawson Little
C. LAWSON LITTLE
CIRCUIT COURT JUDGE